

EXHIBIT 31



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

23 September 2020

Patrick Covello, Warden
California Department of Corrections
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640

Via Email: Patrick.Covello@cdcr.ca.gov

**NOTICE OF VIOLATION FOR SANITARY SEWER OVERFLOWS, CALIFORNIA
DEPARTMENT OF CORRECTIONS—MULE CREEK STATE PRISON, AMADOR
COUNTY**

The Central Valley Water Board regulates the California Department of Corrections (CDCR, Discharger) under Waste Discharge Requirements (WDRs) Order R5-2015-0129 for the treatment and disposal of domestic and industrial wastewater. The WDRs incorporate Monitoring and Reporting Program (MRP) R5-2015-0129 and the March 1991 Standard Provisions and Reporting Requirements (SPRR) into the permit. The collection system is also regulated under Water Quality Order 2006-0003-DWQ, the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (CS General Order).

Mule Creek State Prison has reported three instances 30 months of releases of sewage or wastewater effluent to Mule Creek totaling 77,727 gallons. This value does not include any discharges of stormwater or comingled stormwater from the stormwater collection system of the Old Prison facility, which are currently being addressed through other enforcement actions. These releases are summarized below and the Office of Emergency Services (OES) spill reports are attached. All spill volumes were estimated by the Discharger and reported to both OES and the Regional Board.

- OES #18-2255, 6 April 2018: 33,000 gallons of sewage spilled to Mule Creek due to pump failure.
- OES #19-1088, 14 February 2019: 2,500 gallons of treated effluent released to drainage that leads to Mule Creek caused by power outage at lift station.
- OES #20-4927, 10 August 2020: 42,227 gallons of treated sewage released from lift station which flowed into Mule Creek due to SCADA control failure. An estimated 13,600 gallons was recovered.

KARL E. LONGLEY ScD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

COA0105777

Violations of the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems

The SSO(s) identified here are in violation of the following requirements of CS General Order, as described below:

- Prohibition C.2 of the WDRs states: "*Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code Section 13050(m) is prohibited.*"
- Prohibition C.1, which states: "*Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.*"
- Provision D.1 of the WDRs states: "*The Enrollee must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for enforcement action.*"

The Enrollee should take the appropriate actions to prevent future SSO occurrences, take all feasible steps to remediate the consequences of any future overflows, and implement the provisions of the CS General Order.

Site Inspection Report:

In response to the OES spill notification for the most recent spill on 10 August 2020, Board staff conducted a focused inspection on the same day to observe the condition of the creek, the cleanup efforts, and discuss the cause of the spill. For additional details please see the attached inspection report. Board staff made the following observations:

1. The majority of the volume of the spill had either been cleaned up or percolated into the soil. Damp soil was present in many locations in the creek bed downstream of the spill location, but not upstream. Some shallow ponded water was observed in depressions in the creek bed near the spill location. It was not clear exactly how far down stream the spill traveled due to the amount of time it was allowed to percolate and evaporate between when the spill occurred and the inspection.
2. The SCADA system should be fully inspected to determine what changes can be made to prevent a reoccurrence of this issue.
3. The land application areas appear to be underutilized and inconstantly irrigated. Uneven irrigation and poor vegetation management is likely decreasing disposal capacity, and may be causing runoff or seepage into the creek.
4. Flowing water was observed in the creek downstream of the facility, but the creek was dry upstream. The source(s) of the flowing water in the creek under

Mule Creek State Prison
Amador County

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23 September 2020

the bridge at Highway 104 is unknown but appears to be coming from the MCSP facility. Water is entering the creek is likely from the stormwater system, land application area runoff, seepage from over irrigation in some areas, or from the spill. The source should be identified, characterized, and addressed.

Required Actions:

Board staff is currently evaluating further enforcement action.

The following items must be completed by the Discharger in order to come back into compliance with the related requirements of the WDRs:

1. No later than **15 October 2020**, submit a statement, certified by the Chief Plant Operator, that the SCADA system and MCIC lift station has been inspected and repairs/corrections have been made to ensure an issue similar to what caused the spill on 10 August 2020 will not occur in the future.
2. No later than **15 October 2020**, submit the current Sanitary Sewer Maintenance Plan for the facility.

If you have questions, please contact me at kenny.croyle@waterboards.ca.gov or (916) 464-4676.



HOWARD HOLD, PG #7466
Senior Engineering Geologist
Title 27 and WDR Compliance and Enforcement Unit

Encl: 11 August 2020 Inspection Report and Photo Log
OES Report #18-2255
OES Report #19-1088
OES Report #20-4927

cc: Nickolaus Knight, Office of Enforcement, SWQCB, Sacramento
Mayumi Okomoto, Office of Enforcement, SWQCB, Sacramento
Elizabeth Lee, RWQCB, Rancho Cordova
Scott Armstrong, RWQCB, Rancho Cordova
Lixin Fu, RWQCB, Rancho Cordova
Mohammed Farhad, RWQCB, Rancho Cordova
Xuan Luo, RWQCB, Rancho Cordova
Grant Scavello, USEPA, San Francisco
Eric Papathakis, Staff Council, California Department of Corrections, Sacramento
Mike Israel, Amador County Dept. of Environmental Health, Jackson

(cont.)

Mule Creek State Prison
Amador County

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23 September 2020

Gregor Larabee, California Department of Corrections, Sacramento
Adam Wolfe, California Department of Corrections, Sacramento
Terry Bettencourt, California Department of Corrections, Sacramento
Christofer Hudgens, California Department of Corrections, Ione
Felix Vasquez, California Department of Corrections, Sacramento
Jennifer Buckman, Bartkiewicz, Kronick & Shanahan, APC, Sacramento
Sally Baron, Interested Party, Rancho Cordova
Virginia Silva, Interested Party, Ione
David Anderson, Interested Party, Mokelumne Hill
Jim Scully, Interested Party, Ione

CIWIQS Violations: 1079479
CIWIQS Inspection ID: 41484979

INSPECTION REPORT

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

13 August 2020

DISCHARGER: CALIFORNIA DEPARTMENT OF CORRECTIONS, MULE CREEK STATE PRISON

LOCATION & COUNTY: Highway 104, Amador County

CONTACT(S): Anthony Stark, Chief Plant Operator

INSPECTION DATE: 11 August 2020

INSPECTED BY: Kenny Croyle, Central Valley Water Board

ACCOMPANIED BY: Howard Hold, RWQCB, Estevan Fregeau, CDCR

INTRODUCTION: The Central Valley Water Board regulates the California Department of Corrections (CDCR, Discharger) under Waste Discharge Requirements (WDRs) Order R5-2015-0129 for the treatment and disposal of domestic and industrial wastewater. In response to receiving an Office of Emergency Services (OES) spill notification on 11 August 2020, Board staff conducted a focused inspection on the same day to observe the condition of the creek, the cleanup efforts, and discuss the cause of the spill. The facility conditions that were inspected are described below, and photographs are provided in the attached log.

OBSERVATIONS AND COMMENTS The weather was warm and dry. Water Board staff met with Anthony Stark and Estevan Fregeau at the Wastewater Treatment Plant at approximately 4:15 pm and followed them over to the Mule Creek Infill Complex (MCIC) lift station on the other side of Mule Creek.

CDCR's Statements on Cause of Spill and Cleanup: Anthony explained the following about the cause of the spill and the cleanup efforts:

- The spill occurred at the lift station just downhill and southwest of the MCIC. The logic controller for the lift station had faulted, which had automatically closed a knife gate that controls the output flow from the lift station. With the gate closed, sewage slowly backed up in the vault, eventually overflowing and running down the hill towards Mule Creek.
- The fault occurred around 7 pm on 10 August, and the issue was discovered around noon on 11 August. The highwater alarm and other fail safes did not trigger due to the fault, and the SCADA system showed that the knife gate was open due to the communication error. The issue was only discovered when CDCR staff noticed the reported values for the lift station had not changed at all in several hours and physically went to the lift station to inspect it.
- When the issue was discovered, CDCR staff manually opened the knife gate to allow sewage to flow out of the vault, and then set the knife gate to operate on a float switch until the SCADA control was reestablished. At the time of the inspection the logic controller had not been fixed, and it appeared to require technical support.

-Anthony estimated the spill volume of 42,227 gallons based on the difference between flow meters on either side of the lift station. When the spill was discovered, the entire creek bed at the stream crossing was full of sewage. However, the pooled sewage did not appear to have flowed past a point about 250 feet from the stream crossing. They believe a large portion of the spill seeped into the ground during the roughly 18 hours prior to discovery.

-When the vault overflowed, sewage flowed downhill overland to the west towards the creek. It first encountered a bermed area built to catch potential overflows, approximately 300 feet from the lift station. Unfortunately, the slide gate in the berm was open at the time and so only a small amount of the total capacity of the berm area was utilized to contain the spill. CDCR staff utilized a trash pump and hose to pump the contained sewage back into the vault at the lift station. CDCR staff estimate that 11,100 gallons was contained here and pumped back to the vault.

-The rest of the spill continued downhill another 100 feet where it intersected a dirt access road. The spill followed along the side of the road another 100 feet to a location where the stream crosses Mule Creek, when the sewage flowed into the creek.

-CDCR staff utilized vacuum trucks to collect sewage from the creek bed. They stated they removed 5 vacuum truck loads from the creek, with each track having a capacity of 500 gallons. This recovered sewage was discharged to the drying beds.

-No samples were collected.

-The creek bed had been dry for many weeks prior to the spill, due to lack of rain and hot weather.

-OES was notified, but inadvertently reported 42,227,000 gallons. CDCR called OES and revised the volume of 42,227 gallons.

-At the conclusion of the inspection communication between the lift station and the SCADA system had not been reestablished.

Board Staff's Observations:

Lift Station: Lift station computer showed an error at the time of the inspection. CDCR staff's efforts to reboot were unsuccessful. The area around the lift station was wet from washdown as part of the cleanup effort. The knife gate was open (Photo 1) and the vault was pumped down (Photo 2). The hose running from the bermed area to the vault was still in place (Photos 3, 4). No solids were observed, and the only odors were directly above the vault opening when the lid was open.

Flow Path and Streambed: The bermed area was located 300 feet downhill of the lift station, and had an area of roughly 1000 square feet. The volume of the area was difficult to estimate due to the sloped ground (Photo 5). The trash pump was still in the bermed area, and was a Honda WT20X pump (Photo 6). Another 100 feet downslope (Photo 7) was a dirt access road, where some water was ponded (Photo 8). At this point the flow followed the edge of the access road which lead downhill about 100 feet to a stream crossing where the spill had entered the creek bed (Photos 9, 10, and 11). Vacuum truck hoses were still in the creek from the cleanup effort (Photo 12). Many damp areas and a few shallow ponded depressions were observed in the creek bed for about 250 feet downstream from the stream crossing (Photos 13, 14, and 15). Beyond that area there was a high spot in the creek bed, where CDCR staff stated it did not appear that the spill had overtopped. No damp soil was observed within about

100 feet of that location. Board staff also noted that the creek bed was dry upstream of the stream crossing, and both upstream and downstream of the MCIC access bridge, which is further upstream of the stream crossing in Photo 11. Based on the dead and dry vegetation, it did not appear any water had flowed in the creek from above the stream crossing location in some time.

Bridge at Highway 104: Board staff observed a significant amount of water just upstream of (on CDCR property) and under the bridge where Mule Creek passes under Highway 104 (Photos 16, 17, 18, and 19). A small amount of flow was observed in the creek at this location, less than 5 gallons per minute. Water appeared slightly opaque and had a mild stagnant odor (Photo 19). Algae clumps were also observed in the water. Thick green vegetation in the area suggests that the area is wet frequently even through the dry season. The stormwater outfall is located just upstream of the bridge, but was obstructed by thick vegetation. It was unclear if there was a discharge from the stormwater system at the time of the inspection. Just downstream of the bridge was a deeper ponded area of water of a similar quality (Photo 20). Rags including what appeared to be partially broken down toilet paper and sanitary wipes were observed in the brush along the creek just downstream of the bridge (Photo 22). CDCR staff stated they thought it was more likely irrigation runoff from the land application areas than sewage from the spill.

Land Application Area: The sprayfields staff observed while driving to the lift station and along Highway 104 did not appear to be fully utilized or properly managed. Vegetation was dry or sparse in many locations, but lush and green in small patches. Based on the volume of effluent stored in the onsite reservoir these fields should be better utilized.

Board Staff's Request: At the time of the inspection Board staff requested that CDCR staff collect a sample of standing water that had pooled in depressions in the creek bed, as well as the water under the bridge at Highway 104. Board staff also recommended they collect a sample of the water that was being irrigated on the land application areas so they had data to compare.

SUMMARY. Board staff observed a few areas of concern that are outlined below:

1. The majority of the volume of the spill had either been cleaned up or percolated into the soil. Damp soil was present in many locations in the creek bed downstream of the spill location, but not upstream. Some shallow ponded water was observed in depressions in the creek bed near the spill location. It was not clear exactly how far down stream the spill traveled due to the amount of time it was allowed to percolate and evaporate between when the spill occurred and the inspection.
2. The SCADA system should be fully inspected to determine what changes can be made to prevent a reoccurrence of this issue.
3. The land application areas appear to be underutilized and inconstantly irrigated. Uneven irrigation and poor vegetation management is likely decreasing disposal capacity, and may be causing runoff or seepage into the creek.

4. Flowing water was observed in the creek downstream of the facility, but the creek was dry upstream. The source(s) of the flowing water in the creek under the bridge at Highway 104 is unknown. Water is entering the creek is likely from the stormwater system, land application area runoff, seepage from over irrigation in some areas, or from the spill. The source should be identified, characterized, and addressed.

KENNY CROYLE, WRCE

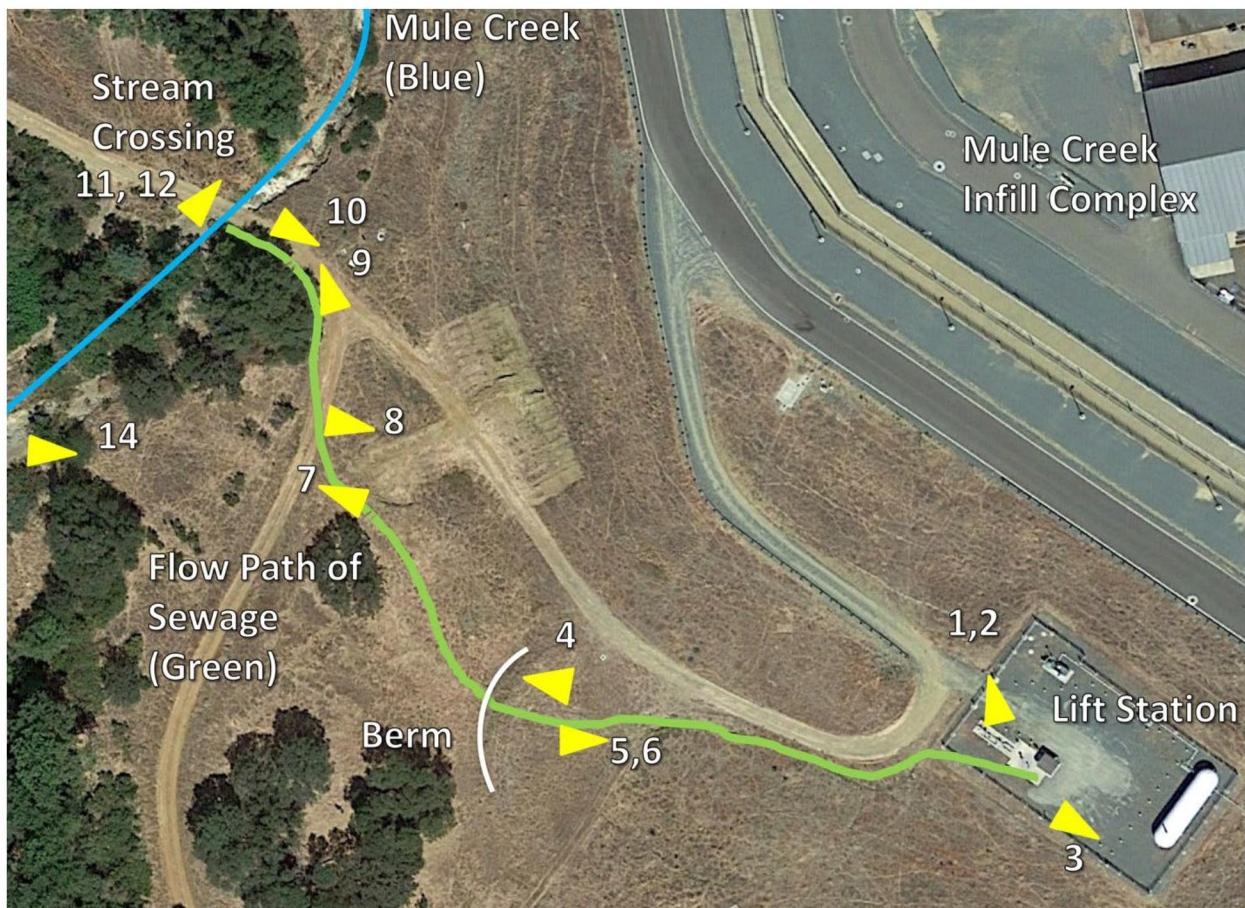


Photo Log Map 1: The locations where pictures 1 through 14 were taken are detailed on this map. The larger end of the triangle is closer to the subject in the photo.

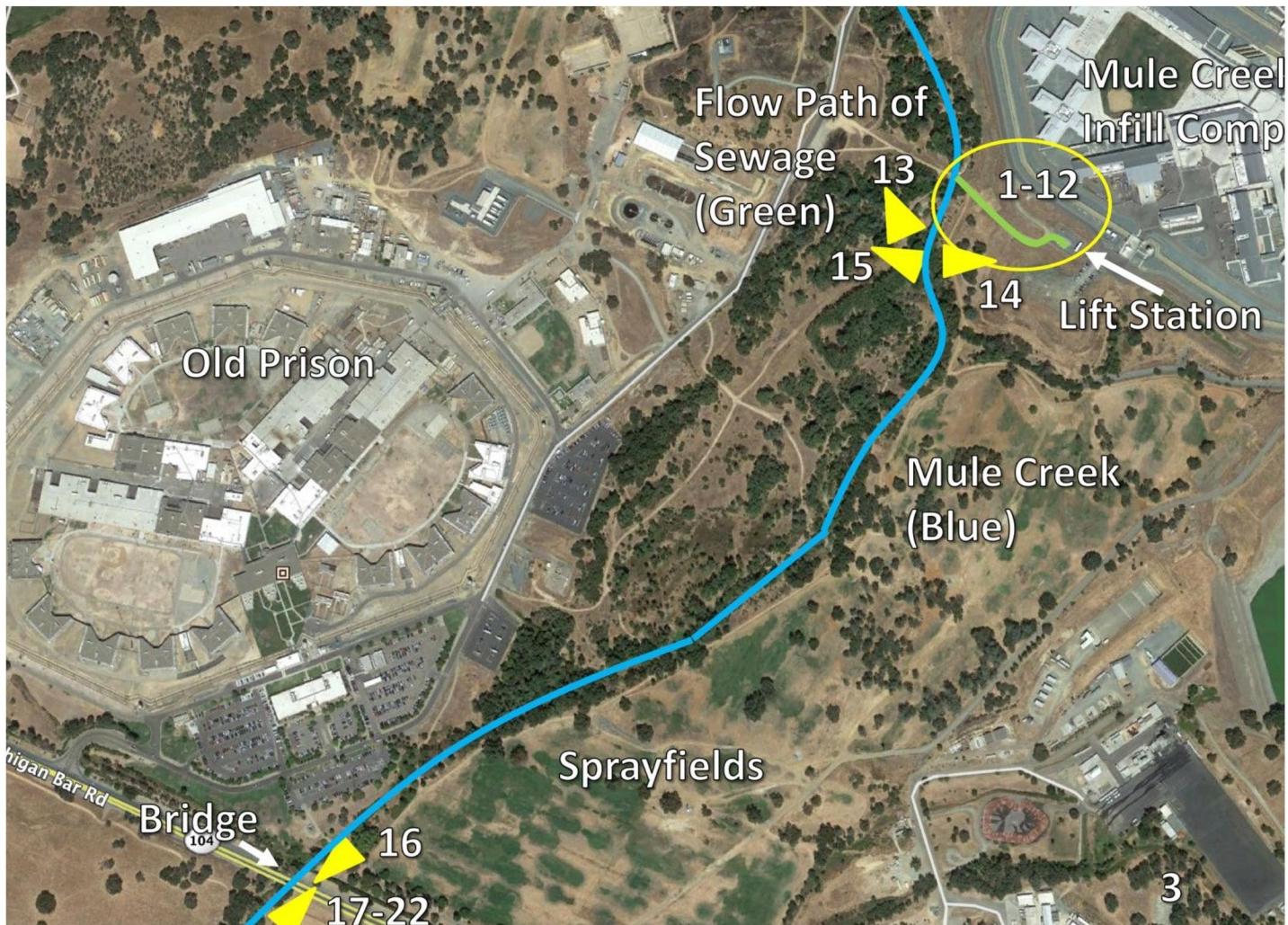


Photo Log Map 2: The locations where pictures 1 through 22 were taken in relation to the entire facility. The larger end of the triangle is closer to the subject in the photo.

Case 2:20-cv-02482-WBS-AC Document 96-6 Filed 12/12/22 Page 12 of 33
California Department of Corrections, Mule Creek State Prison
Highway 104, Ione, Amador County
Inspection Report Photo Log for 11 August 2020

 08.11.2020 16:40	 08.11.2020 16:40
<p>Photo 1. Knife gate that was closed by SCADA system failure, causing the backup in the lift station vault and eventual overflow. Lift station is located just southwest of Mule Creek Infill Complex.</p>	<p>Photo 2. Vault of lift station where overflow occurred. Knife gate in photo 1 is approximately 20 feet to the right. Vault is approximately 500 feet from the creek bed of Mule Creek.</p>
 08.11.2020 16:41	 08.11.2020 16:45
<p>Photo 3. Hose running from small diversion downhill from the lift station back to the lift station vault. Hose was used to pump back collected sewage in bermed area (see photo 4).</p>	<p>Photo 4. View from bermed area looking east towards lift station approximately 300 feet away. Hose on left leading from trash pump to vault.</p>

California Department of Corrections, Mule Creek State Prison

Highway 104, Ione, Amador County

Inspection Report Photo Log for 11 August 2020



08.11.2020 16:45



08.11.2020 17:06

Photo 5. View of bermed area and trash. Bermed area was constructed in case of overflow from lift station. CDCR staff stated that there is a slide gate installed in the berm, but the slide gate was open during the discharge so only a small portion of the total volume of the bermed area was able to hold back sewage.

Photo 6. Honda WT20X trash pump which was used to pump sewage contained by bermed area back to lift station vault.



08.11.2020 16:49



08.11.2020 16:49

Photo 7. Picture taken from the access road, approximately 400 feet west of lift station. Mule Creek creek bed is approximately 100 feet further west.

Photo 8. Pooled water on access road from spill, approximately 100 feet from creek.

 A photograph showing a dirt road curving to the right. To the left, there is a large, dark green bush. The ground is dry and brown, with some sparse vegetation. The date "08.11.2020 16:50" is visible in the bottom right corner of the photo.	 A photograph showing a dirt road curving to the left. A person is walking away from the camera down the road. To the left, there is a large, dark green bush. The ground is dry and brown, with some sparse vegetation. The date "08.11.2020 16:50" is visible in the bottom right corner of the photo.
<p>Photo 9. Damp soil going down the road towards creek, facing approximately east.</p>	<p>Photo 10. Damp soil going down the road towards creek, facing approximately west.</p>
 A photograph showing a dirt road with a small, shallow puddle of brownish water on the left side. In the background, there is a dry creek bed with some rocks and sparse vegetation. The date "08.11.2020 16:50" is visible in the bottom right corner of the photo.	 A photograph showing a dry creek bed with a red flexible hose coiled across it. The creek bed is rocky and surrounded by dry grass and bushes. The date "08.11.2020 16:51" is visible in the bottom right corner of the photo.
<p>Photo 11. Small puddle of water on road of creek crossing. Creek bed in background. This is the location where the overland flow of sewage entered the creek bed.</p>	<p>Photo 12. Creek bed of Mule Creek from the stream crossing nearest to the lift station. Lift station is approximately 500 feet to the left of this picture, east of the creek. Hoses were left from vacuum truck after recovery effort.</p>

Case 2:20-cv-02482-WBS-AC Document 96-6 Filed 12/12/22 Page 15 of 33
California Department of Corrections, Mule Creek State Prison
Highway 104, Ione, Amador County
Inspection Report Photo Log for 11 August 2020

	
<p>Photo 13. Creek bed of Mule Creek approximately 200 feet downstream from crossing in Photo 11. Damp soil observed.</p>	<p>Photo 14. Creek bed of Mule Creek approximately 150 feet downstream from crossing in Photo 11. Damp soil observed.</p>
	
<p>Photo 15. Creek bed of Mule Creek approximately 250 feet downstream from crossing in Photo 11. Small amount of ponded water in depressions.</p>	<p>Photo 16. Looking up Mule Creek from the Highway 104 bridge. Location is approximately 4000 feet downstream from the crossing shown in Photo 11. Significant water was present in creek. Very small amount of flow was observed.</p>

Case 2:20-cv-02482-WBS-AC Document 96-6 Filed 12/12/22 Page 16 of 33
California Department of Corrections, Mule Creek State Prison
Highway 104, Ione, Amador County
Inspection Report Photo Log for 11 August 2020

	
<p>Photo 17. Ponded water under bridge where Mule Creek passes under Highway 104.</p>	<p>Photo 18. Ponded water under bridge where Mule Creek passes under Highway 104. Mild stagnant water odor observed.</p>
	
<p>Photo 19. Close up of ponded water under bridge where Mule Creek passes under Highway 104. Water appeared slightly opaque and had large clumps of green algae looking material.</p>	<p>Photo 20. Looking downstream from under the bridge. Small amount of flow moving downstream. Water appeared slightly opaque and had large clumps of algae. Some rags observed (see Photo 22).</p>

Case 2:20-cv-02482-WBS-AC Document 96-6 Filed 12/12/22 Page 17 of 33
California Department of Corrections, Mule Creek State Prison
Highway 104, Ione, Amador County
Inspection Report Photo Log for 11 August 2020

 A close-up photograph showing a ponded area of water. The water is brownish and appears stagnant. There are some green plants and leaves floating on the surface. The date "08.11.2020 16:20" is overlaid in orange text at the bottom right of the photo.	 A photograph showing a piece of white, crumpled material, likely toilet paper or a sanitary wipe, lying on the ground next to a creek bed. The ground is covered with dirt, small rocks, and some green vegetation. The date "08.11.2020 16:20" is overlaid in orange text at the bottom right of the photo.
Photo 21. Close up of ponded just downstream of bridge where Mule Creek passes under Highway 104.	Photo 22. Rags observed in brush next to creek. Appears to be toilet paper and a sanitary wipe.

Governor's Office Emergency Services
Hazardous Materials Spill Report

DATE: 04/06/2018	RECEIVED BY:	CONTROL#: Cal OES - 18-2255
TIME: 1416		NRC -

1.a. PERSON NOTIFYING Cal OES:

1. NAME:	2. AGENCY:	3. PHONE#:	4. Ext:	5. PAG/CELL:
	Mule Creek State Prison			

1.b. PERSON REPORTING SPILL (If different from above):

1. NAME:	2. AGENCY:	3. PHONE#:	4. Ext:	5. PAG/CELL:

2. SUBSTANCE TYPE:

2. a. SUBSTANCE:	b.QTY:>=<Amount	Measure	c. TYPE:	d. OTHER:	e. PIPELINE	f. VESSEL
			SEWAGE	No	No	>= 300 Tons
1. Sewage	=	33,000	Gal(s)	No	No	
2.	=			No	No	
3.	=			No	No	

g. DESCRIPTION: Per the caller a pump control failure caused the release.

h.	i. WATER	j. WATERWAY:	k. DRINKING WATER IMPACTED

STOPPAGE/CONTAINMENT:INVOLVED:

Yes	Yes	Storm Drain/Mule Creek	No

I. KNOWN IMPACT

None

3. a. INCIDENT LOCATION: 4001 Highway 104

b. CITY:	c. COUNTY:	d. ZIP:	AMADOR COUNTY APCD
Ione	Amador County	95640	

4. INCIDENT DESCRIPTION:

a. DATE:	b. TIME (Military):	c. SITE:	d. REPORTED CAUSE
04/06/2018	1255	Other	Mechanical

Description for Other :

Prison

e. INJURIES	f. FATALITY	g. EVACUATION	h. CLEANUP BY:
No	No	No	Unrecoverable

6. NOTIFICATION INFORMATION:

a. ON SCENE:	b. OTHER ON SCENE:	c. OTHER NOTIFIED:

d. ADMIN. AGENCY:	Amador County
	Environmental Health

e. SEC. AGENCY:	

f. ADDITIONAL COUNTY:	Sacramento County

g. ADMIN. AGENCY:	Sacramento County Environmental Management

h. NOTIFICATION LIST:

DOG Unit:	i. RWQCB Unit:
	5B
AA/CUPA, DTSC, RWQCB, US EPA, USFWS, DFG-OSPR, LANDS, PARKS & REC, Co/WP, Co/E-Hlth	

Photo Attachment:	
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***** Control No: **18-2255** *****

Created by: Warning Center on: 04/06/2018 02:16:52 PM Last Modified by: Warning Center on: 04/06/2018 03:00:02 PM

[PrevDoc](#) [NextDoc](#)

**Governor's Office of Emergency Services
Hazardous Material Spill Update**

CONTROL#: 20-4297 NRC#

NOTIFY DATE/TIME: 08/11/2020 / 1258	RECEIVED BY: OCCURENCE DATE/TIME: 08/10/2020/1900	CITY/OP. AREA: Ione/Amador County AMADOR COUNTY APCD
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1.a. PERSON NOTIFYING Cal OES:

AGENCY: Mule Creek State Prison	
--	--

1.b. PERSON REPORTING SPILL (If different from above):

AGENCY:	
---------	--

SUBSTANCE TYPE:

a. SUBSTANCE:	b. QTY:	Measure <i>Amount</i>	c. TYPE:	d. OTHER:	e. PIPELINE	f. VESSEL <i>>= 300 Tons</i>
1.Sewage	42,227,000	Gal(s)	SEWAGE		No	No
2.					No	No
3.					No	No

Original Description: Per caller: A valve failed at the MCIC lift station causing overflow, stopped 1130 hours. Sewage spilled into a dry seasonal **creek**, has been stopped and contained.

PERSON NOTIFYING Cal OES OF SPILL UPDATE:

NAME:	AGENCY:	PHONE#:	Ext:	PAG/CELL:
	Mule Creek State Prison			

UPDATE QUANTITY

<i>Amount</i>	<i>Measure</i>
1. 42,227	Gal(s)

2.

3.

4.

UPDATE KNOWN IMPACT:	
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UPDATE CAUSE:	
----------------------	--

SITUATION UPDATE:

RP **states** the amount was incorrectly recorded previously, the actual amount released was 42,227.

FAX NOTIFICATION LIST:

AA/CUPA, DTSC, RWQCB, US EPA, USFWS, DFG-OSPR, LANDS, PARKS & REC, Co/WP, Co/Hlth, Co/E-Hlth

ADMINISTERING AGENCY: Amador County Environmental Health

SECONDARY AGENCY:**ADDITIONAL COUNTIES:****ADDITIONAL ADMIN. AGENCY:****OTHER NOTIFIED:**

RWQCB Unit: 5B

Cal GEM:

CONFIRMATION REQUEST:**FAX NOTIFICATION****LIST:****ADMINISTERING****AGENCY:****ADDITIONAL ADMIN.****AGENCY:**

9/14/2020

Hazardous Materials Spill Update - 20-4297

SECONDARY AGENCY:

ADDITIONAL

COUNTIES:

Cal GEM:

RWQCB Unit:

Created by: Warning Center on: 08/11/2020 01:32:10 PM Last Modified by: Warning Center on: 08/11/2020 01:35:06 PM

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EXHIBIT 32

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
ROBERT T. MATSUI FEDERAL COURTHOUSE

| | |
|---|--------------------|
| CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, |) |
| |) |
| Plaintiff, |) |
| |) Case No. |
| vs. |) |
| KATHLEEN ALLISON, etc., |) 2:20-cv-02482- |
| |) WBS-AC |
| Defendants. |) |
| |) |
| COUNTY OF AMADOR, etc., |) |
| |) |
| Plaintiff, |) |
| |) Case No. |
| vs. |) |
| KATHLEEN ALLISON, etc., et al., |) 2:21-cv-0038-WBS |
| | -AC |
| Defendants. |) |
| |) |

DEPOSITION OF KENNETH WILLIAM CROYLE
EL DORADO HILLS, CALIFORNIA
Friday, September 16, 2022

REPORTED BY:
Theresa Nadeau, CSR No. 10526
Job No. 73906

September 16, 2022

1 Q. And what is gray water?

2 A. **Gray water is wastewater that doesn't include**
3 **sewage or human waste.**

4 Q. So wastewater -- I'm sorry, gray water is also
5 material other than storm water?

6 A. **Yes.**

7 Q. At the time that this 13267 order was issued,
8 did board staff know what the sources of the wastewater
9 were?

10 MS. HARTMAN KING: Objection, calls for
11 speculation.

12 **THE WITNESS: No.**

13 BY MR. CARLON:

14 Q. I'm sorry. Could we get that answer again? I
15 think you were speaking over --

16 A. **Yeah. Sorry about that. The answer is no.**

17 Q. Okay. And since the order was issued, has
18 board staff learned what the sources are?

19 MS. HARTMAN KING: Objection, calls for
20 speculation, calls for expert testimony, lacks
21 foundation.

22 **THE WITNESS: Yes.**

23 BY MR. CARLON:

24 Q. And what are they?

25 A. **The sources appear to be from commingled water,**

September 16, 2022

1 indirect cross-connections caused by leaky pipes in both
2 the sanitary sewer and storm water system beneath the
3 old prison.

4 Q. And how do you know that?

5 A. CDCR conducted a investigation of both the
6 storm water system and the sanitary sewer system and
7 found numerous defects in both systems and evidence of
8 high groundwater, CCTV footage of water infiltrating the
9 storm water system and dry weather flows throughout the
10 year to the storm water system despite not irrigating or
11 shutting off their irrigation line to their yards and
12 numerous samples that they collected from the storm
13 water system.

14 And also the way the prison was constructed,
15 the sanitary sewer pipes are above or buried above the
16 storm water pipes in some cases, and they were installed
17 in the same trench in a lot of cases, kind of giving
18 them the opportunity to have an indirect
19 cross-connection.

20 Q. What's the significance of the pipes being
21 buried in the same trench?

22 MS. HARTMAN KING: Objection, calls for expert
23 testimony, calls for speculation, lacks foundation.

24 THE WITNESS: The significance is that they're
25 in close proximity so it just increases the chance that

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1 an indirect cross-connection can occur. And also the
2 soil in the area is primarily clay, or at least on the
3 constructed pad that they built the prison on, and we
4 have heard from CDCR staff that the trenches that were
5 backfilled once the pipes were in place were backfilled
6 with material that is a little more conductive, and so
7 there's a higher chance that the systems could be in
8 communication with each other.

9 BY MR. CARLON:

10 Q. And when you say in communication, could you
11 clarify that, please.

12 A. Yes. Water entering one system from the other
13 system through the soil.

14 Q. And in your experience at the regional board,
15 would a properly maintained MS4 have wastewater in it?

16 MS. HARTMAN KING: Objection, calls for
17 speculation, calls for expert testimony, lacks
18 foundation.

19 THE WITNESS: No, it should not have wastewater
20 in it.

21 BY MR. CARLON:

22 Q. And that would include gray water?

23 MS. HARTMAN KING: Same objections.

24 THE WITNESS: Yes.

25 BY MR. CARLON:

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1 to address the concerns that you've identified relating
2 to the ductile iron sewer pipes?

3 MS. HARTMAN KING: Objection, calls for
4 speculation, calls for legal conclusion, calls for
5 expert testimony, lacks foundation.

6 **THE WITNESS: No, I do not believe so.**

7 BY MR. CARLON:

8 Q. You've mentioned a couple times indirect
9 cross-sections. Can you explain to me what an indirect
10 cross-section is? And I guess in this -- I'm sorry, let
11 me rephrase that. I may be able to save you the
12 objection.

13 You've mentioned indirect cross -- I'm sorry,
14 indirect cross-connections a couple of times. Can you
15 please explain what you mean by indirect
16 cross-connection in the context of the Mule Creek
17 sanitary sewer system and the Mule Creek MS4 system?

18 A. Yes. An indirect cross-connection would be
19 water from one system moving through a crack in the pipe
20 or some kind of defect into the soil, saturating that
21 soil to the extent of the other system and then leaking
22 into that system through another defect or crack or
23 something like that.

24 Q. And is it your understanding that an indirect
25 cross-connection can be a source of wastewater into the

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1 MS4?

2 MS. HARTMAN KING: Objection, calls for --

3 **THE WITNESS: Yes.**

4 MS. HARTMAN KING: Calls for speculation, calls
5 for expert testimony.

6 **THE WITNESS: Yes.**

7 BY MR. CARLON:

8 Q. And how would you contrast an indirect
9 cross-connection with a direct cross-connection?

10 A. A direct cross-connection is more -- I guess
11 more of a plumbing mistake where the sanitary sewer
12 system would be directly plumbed with a pipe joint to
13 the storm water system.

14 Q. It appears from this memo that you disagreed
15 with CDCR's conclusion that indirect cross-connection
16 between the sewer system and MS4 are unlikely; is that
17 correct?

18 A. Yes.

19 Q. And is it your opinion that it was likely that
20 indirect cross-connections existed at the time that you
21 wrote this memo?

22 A. Yes.

23 Q. And how did you reach that opinion?

24 A. Well, SHN's conclusion was that high
25 groundwater was the source of the water flowing into the

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1 storm water system, which was most obvious during dry
2 weather flows when there was no other source, and it was
3 observable on the CCTV footage.

4 And based on the number of defects, the extent
5 of the defects in both systems, the fact that the pipes
6 are co-located in the same trench, frequently only a
7 couple feet apart, and the fact that the sewer pipes are
8 above the storm water pipes in some cases all led up to
9 the conclusion that indirect cross-connections were
10 possible.

11 And most importantly, I would say there's --
12 the way the prison is constructed, it's on a -- it's on
13 a plain and the perimeter storm water system completely
14 surrounds it. So that system, the ditch is lower than
15 anything within the prison.

16 If there is high groundwater, which based on
17 the CCTV footage there appears to be high groundwater
18 seeping into the pipes, the only possible source is from
19 the prison itself.

20 Since they weren't irrigating frequently, there
21 is dry spells, no rain, no irrigation and there is still
22 high groundwater somehow entering the system, it was our
23 conclusion that that water was likely from the sewer
24 system or from wash-down activities or clean-outs and
25 things like that from the industrial processes, and the

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1 sampling data and lab reports back that up.

2 Q. And have you gained any additional information
3 since you wrote this memo that undermines that opinion?

4 A. No.

5 Q. On page three, MCSP 31307, second paragraph,
6 the memo states that "the analysis does not take into
7 account," then identifies a number of issues. I'm going
8 to walk through those issues and just ask you what
9 relevance each one of those has on your conclusion.

10 So what is the relevance of groundwater data --
11 I think you covered this a little bit already, but
12 what's the relevance of the groundwater data showing
13 that the systems are below the water table to your
14 conclusion that there are indirect connection?

15 A. The ground water data is -- it's from the
16 monitoring wells nearby showing that the high
17 groundwater that was observed on the CCTV footage and is
18 observable in the flow values is not the water table.
19 The water table is much lower than that based on the
20 monitoring wells on site.

21 Q. And what's the relevance of the existence of
22 multiple French drain segments in the storm water system
23 on your conclusion that there are indirect
24 cross-connection?

25 A. We were told by CDCR staff that the French

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1 A. We inspected both wastewater treatment
2 facility, the spray fields, the industrial operations at
3 the site including the coffee roaster, the meat packing,
4 some of the janitorial vocational training facilities,
5 the textile manufacturing operation. We looked at some
6 of the storm drains and manhole covers. We took a look
7 at the storm water system, the perimeter system and the
8 discharges to Mule Creek, and we observed their storm
9 water pond up at the Mule Creek infield complex and
10 their food packing plant up there and their effluent
11 reservoir.

12 Q. You said you observed their discharges to Mule
13 Creek. Were those discharge points or was it actually
14 discharging while you were there?

15 A. We observed the discharge points. I honestly
16 can't recall if they were discharging at the time of the
17 inspection.

18 Q. And that would have been MCSP 2 and MCSP 3?

19 A. Yes.

20 Q. You said you looked at Mule Creek itself while
21 you were there?

22 A. Yes.

23 Q. So this order refers to Mule Creek having water
24 despite hot dry weather. Why is that significant?

25 A. Mule Creek is in a relatively small watershed

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1 in the city of Ione, a fair amount of hot weather, hot
2 and dry weather throughout the year and so the creek
3 frequently goes dry, and despite it being dry in some
4 locations, sometimes it is wet upstream typically either
5 on CDCR property or just downstream of it, and that's
6 been -- we've received complaints about that for long
7 before I started at the regional board, going on
8 probably 15, 20 years now.

9 And so because it's dry upstream and it's
10 relatively dry at some point downstream, there's clearly
11 a source from Mule Creek State Prison that is causing
12 the creek to be wet when it should be dry.

13 Q. This section references a spill that occurred
14 on July 13, 2019. Do you know what kind of spill that
15 was?

16 A. I cannot remember off the top of my head.

17 Q. Do you see in the second paragraph where it
18 says, "A spill had occurred on 13 July 2019 but only
19 5,000 gallons of effluent had been reported to have been
20 discharged to the creek"?

21 A. Yes, I see that.

22 Q. Does that refresh your recollection about what
23 type of spill that was?

24 A. Only as far as that it was effluent. There's
25 been a number of spills. They all kind of run together.

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1 I can't recall the exact cause or source of that spill.

2 Q. Understood. And could you describe what your
3 understanding of effluent is for me, please.

4 A. Yes. Effluent is wastewater that has been
5 treated at their wastewater treatment plant to secondary
6 disinfected levels. Yeah.

7 Q. And so this order concludes that CDCR's loading
8 of the fields is causing seepage into the Dry Creek bed;
9 is that correct?

10 A. Yes.

11 Q. Could you describe for me what heavy hydraulic
12 loading means in this context?

13 A. Yes. Overapplication of effluent onto their
14 land application areas to the point where the soil is
15 saturated and water flows subsurface into the creek bed
16 and then daylights out into the creek.

17 Q. And so here fields refers to the land
18 application area.

19 A. Yes.

20 Q. And do you know how that conclusion was made
21 here?

22 A. Yes. Observation by CDCR staff. They had to
23 close some of their spray fields when they built the
24 MCIC complex in 2015, and so they lost disposal capacity
25 but they gained a bunch more beds which created more